

Michigan Department of Health and Human Services— Juvenile Justice Programs

Prison Rape Elimination Act 2015 Annual Data and Annual Report

Michigan's public juvenile justice residential facilities and private facilities that contract with the state to provide juvenile justice residential services are required to adopt and comply with all standards of the federal Prison Rape Elimination Act (PREA). The Michigan Department of Health and Human Services (MDHHS) Juvenile Justice Programs (JJP) policy mandates that all facility personnel have zero tolerance for sexual abuse and sexual harassment of residents. Facilities must have preventive plans in place and, should allegations regarding sexual abuse or harassment be made, all personnel must be appropriately trained to take action to rapidly restore safety, attend to and support the victim, and promptly initiate the investigative process. Audits are required to ensure compliance with PREA standards.

Reporting Sexual Abuse or Harassment

Policy requires that juvenile justice facilities provide youth with multiple ways to report sexual abuse and harassment, including suspected sexual abuse, and youth must be given an orientation on the multiple reporting options available to them. Facilities must ensure that youth who report sexual abuse or harassment and supporting witnesses are protected from retaliation. Facilities must inform youth that they will be protected from retaliation. Reporting options include:

- Verbally to any staff, counselor or administrator.
- In writing to any staff, counselor or administrator.
- In writing through the youth and family grievance process.
- Verbally or in writing to an advocate or parent.
- Externally by telephoning Children's Protective Services at 855-444-3911 or other outside reporting option as established by a facility.

Youth's family members and the public are also encouraged to report suspected sexual abuse or harassment of youth in custody. Anonymous and third-party reports are accepted. The MDHHS Children's Protective Services line, 855-444-3911, can be utilized at any time to report suspected abuse or neglect, including sexual abuse.

2015 Sexual Abuse Data

PREA Juvenile Standard 115.389 states in part that "... (MDHHS) shall make all aggregated sexual abuse data, from facilities under its direct control and from which it contracts, readily available to the public at least annually through its website ..."

Aggregated data for the 2015 calendar year on sexual abuse and sexual harassment allegations, as defined in the federal Bureau of Justice Statistics' Survey of Sexual Victimization, follows:

Public Facilities

The following aggregate data was reported for calendar year 2015 from the three state-operated juvenile justice facilities: Bay Pines Center, Shawono Center, and W.J. Maxey Boys Training School. Note: W.J. Maxey Boys Training School closed on September 30, 2015.

Demographic Data

Number of youth in the three facilities on December 31, 2015:

- Male: 54
- Female: 23
- Total: 77

Age of the youth held in these facilities:

- Age 17 or younger: 64
- Ages 18-20: 13
- Age 21 or older: 0

Number of youth admitted to these facilities and discharged from these facilities:

- Admitted: 209
- Discharged: 237

Reporting & Allegation Statistics

In 2015, it was reported that the facilities:

- Kept a record of all allegations of youth-on-youth nonconsensual sexual acts, whether substantiated or not, and kept a record of all allegations of attempted youth-on-youth non-consensual acts, whether the allegation was substantiated or not. There were (added “there were”) zero (0) allegations of youth-on-youth nonconsensual sexual acts made in these facilities.
- Kept a record of all allegations of youth-on-youth abusive sexual contact, whether substantiated or not. Zero (0) allegations of youth-on-youth abusive sexual contact were recorded.
- Kept a record of all allegations of youth-on-youth sexual harassment, whether substantiated or not. Two (2) allegations of youth-on-youth sexual harassment were recorded.

Of the allegations reported above:

One (1) was Substantiated: The event was investigated and determined to have occurred.	One (1) was Unsubstantiated: Evidence was insufficient to make a final determination that the event occurred.	Zero (0) were Unfounded: The event was determined not to have occurred.	Zero (0) have an Investigation ongoing: A final determination has not yet been made as to whether the event occurred.
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Additionally, it was reported that the public facilities:

- Kept a record of all allegations of staff sexual misconduct, whether the allegation was substantiated or not. Zero (0) allegations of staff sexual misconduct were made in any of these facilities.
- Kept a record of all allegations of staff sexual harassment, whether the allegation was substantiated or not. Zero (0) allegations of staff sexual harassment were made in these facilities.

Private Facilities

The following aggregate data for calendar year 2015 was reported by private facilities contracted by MDHHS to provide juvenile justice residential services (Bethany Christian Services, Crossroads for Youth, Detroit Behavioral Institute, Don Bosco Hall, Eagle Village, Grand Traverse Band of Ottawa and Chippewa Indians, Great Lakes Recovery, Holy Cross Children's Services, Highfields, Lakeside Inc., Murack Lodge, Muskegon River Youth Home, Muskegon River Pathway to Hope, Pineview Homes, Spectrum Human Services, Starr Commonwealth, Teaching Family Homes of Upper Michigan, Turning Point Youth Center, Wedgewood Christian Services and Wolverine Human Services).

Demographic Data

Number of youth held in these facilities on December 31, 2015:

- Male: 871
- Female: 227
- Total: 1098

Age of the youth held in these facilities:

- Age 17 or younger: 1013
- Ages 18-20: 85
- Age 21 or older: 0

Number of youth admitted to these facilities and discharged from these facilities:

- Admitted: 2044
- Discharged: 1868

Reporting & Allegation Statistics

In 2015, the following statistics were reported by the facilities:

- All of the facilities reported keeping a record of all allegations of youth-on-youth nonconsensual sexual acts, whether the allegation was substantiated or not. Three (3) allegations of youth-on-youth nonconsensual sexual acts were recorded.

Of the allegations reported above:

Zero (0) were Substantiated: The event was investigated and determined to have occurred.	Three (3) were Unsubstantiated: Evidence was insufficient to make a final determination that the event occurred.	Zero (0) were Unfounded: The event was determined not to have occurred.	Zero (0) have an Investigation ongoing: A final determination has not yet been made as to whether the event occurred.
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Additionally, the facilities reported:

- Keeping a record of all allegations of youth-on-youth abusive sexual contact, whether the allegation was substantiated or not. Nine (9) allegations of youth-on-youth abusive sexual contact were made at these facilities. Twenty-seven (27) of the facilities reported allegations of youth-on-youth sexual harassment. Nineteen (19) allegations of youth-on-youth sexual harassment were made at the 27 facilities that kept records of this.
- One facility reported that it did not keep a record of youth-on-youth sexual harassment.

Of the allegations reported above:

Fourteen (14) Substantiated: The event was investigated and determined to have occurred.	Six (6) were Unsubstantiated: Evidence was insufficient to make a final determination that the event occurred.	Eight (8) were Unfounded: The event was determined not to have occurred.	Zero (0) have an Investigation ongoing: A final determination has not yet been made as to whether the event occurred.
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The private facilities reported:

- Keeping a record of all allegations of staff sexual misconduct, whether the allegation was substantiated or not. Ten (10) allegations of staff sexual misconduct were made in these facilities.

Of the allegations reported above:

One (1) was Substantiated: The event was investigated and determined to have occurred.	Seven (7) were Unsubstantiated: Evidence was insufficient to make a final determination that the event occurred.	Two (2) were Unfounded: The event was determined not to have occurred.	Zero (0) has an Investigation ongoing: A final determination has not yet been made as to whether the event occurred.
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Additionally the private facilities reported:

- Keeping a record of all allegations of staff sexual harassment.
- There was one (1) allegation of staff sexual harassment made at these facilities.

Of the allegations reported above:

Zero (0) were Substantiated: The event was investigated and determined to have occurred.	One (1) was Unsubstantiated: Evidence was insufficient to make a final determination that the event occurred.	Zero (0) were Unfounded: The event was determined not to have occurred.	Zero (0) have an Investigation ongoing: A final determination has not yet been made as to whether the event occurred.
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PREA Annual Report

Section 115.388 of PREA requires that the MDHHS review data on sexual abuse in juvenile justice residential facilities on an annual basis in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies and practices, improve training, and identify problem areas and take corrective action on an ongoing basis. This report includes a comparison of 2014 and 2015 data on sexual abuse allegations, reviews how PREA audits are used to develop corrective action plans to address compliance deficiencies, describes how investigations of sexual abuse allegations are conducted, and provides an assessment of the Department's progress in preventing sexual abuse and sexual harassment of juvenile justice residential facility residents.

Sexual Abuse Allegation Year-to-Year Comparison Data

Statistical information listing numbers and types of allegations of sexual abuse or harassment are self-reported annually to MDHHS by privately-operated juvenile justice residential facilities under contract to MDHHS, and by the three public facilities operated by MDHHS. Comparison data on sexual abuse and sexual harassment allegations and outcomes for the 2015 and 2014 calendar years appears below:

Calendar Year 2015 All Facilities	
Youth in residence on December 31	1,175
Allegations of youth-on-youth sexual abuse or misconduct	12
Allegations substantiated	4
Allegations of staff-on-youth sexual misconduct	10
Allegations substantiated	1
Allegations of staff-on-youth sexual harassment	1
Allegations substantiated	0
Allegations per 100 youth in population	2
Percent of allegations substantiated	42%
Allegations of youth-on-youth sexual harassment	21
Allegations substantiated	11

Calendar Year 2014 All Facilities	
Youth in residence on December 31	1,254
Allegations of youth-on-youth sexual abuse or misconduct	33
Allegations substantiated	12
Allegations of staff-on-youth sexual misconduct	4
Allegations substantiated	0
Allegations of staff-on-youth sexual harassment	2
Allegations substantiated	2
Allegations per 100 youth in population	3.1
Percent of allegations substantiated	36%
Allegations of youth-on-youth sexual harassment	16
Allegations substantiated	1

Data Analysis

There was a decrease in the number of reported sexual abuse, sexual misconduct, and/or staff sexual harassment allegations made in 2015 compared to the number of reported allegations made by youth in 2014, with a total of 23 allegations made in 2015 versus a total of 39 allegations made in 2014. Youth, staff, or third parties can make allegations. The percentage of allegations that were substantiated in 2015 was greater than the percentage of allegations substantiated in 2014, however the actual number of substantiated allegations in 2015 is only one-third the number of allegations that were substantiated in 2014. The decrease in both the number of allegations reported and the number of allegations that were substantiated could be a reflection of facility practices designed to prevent incidents of sexual abuse, and detect and effectively respond to incidents when they do occur. By the end of 2015 two-thirds of all public and contracted juvenile justice facilities in Michigan had been certified as compliant with PREA through the official audit process, signifying that zero-tolerance expectations are becoming imbued into facility cultures.

First year comparison data of youth-on-youth sexual harassment allegations is now available. There were 21 such allegations made in 2015, with 11 of those allegations substantiated, versus 16 such allegations made in 2014, when one allegation was substantiated. The increase in allegations of youth-on-youth sexual harassment made in 2015, and the increase in the number of those allegations that were substantiated, could be an indicator of youth confidence in their ability to make allegations without fear of retaliation, as well as a possible indicator that youth, staff, and investigators are becoming better educated on their rights and responsibilities under PREA for zero tolerance of sexual harassment. PREA Standards require youth and staff education, require that youth have the unrestricted right to use a grievance process or other avenues to report allegations, and that reporting youth and supporting witnesses be protected from retaliation for reporting.

Review of a sample of incident reports describing allegations that were substantiated in 2014 indicated that the prevalent type of abuse that was alleged involved youth-on-youth sexual activity. In cases where youth-on-youth sexual activity is detected by staff or otherwise becomes known, the facility must respond in accordance with its sexual abuse coordinated response plan even if the youths involved claim to have willingly participated. Because many youth in juvenile justice residential placement have not reached the age of consent, and because sexual activity of any type is prohibited for all youths in facilities, regardless of the youth's age, these incidents must be reported and investigated accordingly. An investigative finding that the activity was coerced is grounds for criminal prosecution. There was one substantiated incident of staff-on-youth sexual misconduct reported in 2015, at a contracted facility. PREA Standards require that staff that engage in sexual misconduct with youth be disciplined up to and including dismissal, and that allegations that are substantiated be referred to law enforcement and reported to pertinent licensing entities.

PREA Compliance Activities

The majority of both public and private facilities have been certified by audits as compliant with the PREA juvenile standards. The standards are designed to eliminate sexual abuse and sexual harassment of youth in custody. Since 2012 MDHHS has provided consultation and on-site technical assistance to public and private facilities to guide and support facilities in achieving compliance, and to assist facilities to prepare for audits.

PREA audits were conducted at 16 facilities in 2015, and in five facilities in 2014. All but two of the 21 facilities audited were certified as fully compliant. Audits at the remaining six facilities that are required to achieve full PREA compliance are underway and expected to be completed in May 2016.

Audits assess and improve the effectiveness of facilities' sexual abuse prevention, detection, and response policies and practices. Audits are the principle method utilized by the Department to effectively identify problem areas and mandate corrective action. Corrective action plans resulting from audit findings dictate activities that facilities must complete to achieve compliance and maximize youth safety. One-third of all public and privately-operated facilities under contract to the state must be audited annually, and all facilities must be audited by the end of the first full audit cycle on Aug. 20, 2016. At that time, the audit cycle begins again ensuring continued adherence to policies and practices that prevent sexual abuse and sexual harassment in facilities.

In conjunction with providing technical assistance, the department also assesses facilities that have yet to be audited to estimate compliance. In lieu of an audit finding, a facility is considered to be compliant if it has demonstrated a commitment to be PREA compliant, is actively and effectively working towards achieving full compliance with all of the PREA standards, is able to demonstrate substantial progress towards achieving compliance, and is monitored by the department.

Investigation of Allegations

PREA Standard 115.322—Policies to Ensure Referrals of Allegations for Investigations, requires that the Department ensures an administrative or criminal investigation is completed for all allegations of sexual abuse and sexual harassment. In addition, if a separate entity is responsible for conducting criminal investigations, the department must publish on its website a description of the responsibilities of both the department and the investigating entity relative to conducting those investigations.

The MDHHS residential facility policy manual lists the requirements that facilities develop and attempt to enter into agreements with law enforcement agencies as part of responsive planning for conducting criminal investigations. If the facility conducts its own investigations, including administrative investigations, personnel conducting those investigations must have received specialized training. Facility policies and memorandums of understanding with outside investigative agencies further detail responsibilities. Standard agreement language between both of the public facilities and law enforcement agencies is:

The facility agrees to:

- Cooperate fully with law enforcement investigators.
- Not terminate an investigation solely because the source of the allegations recants the allegation.
- Make every effort to protect evidence and incident scenes, if known or identified, until law enforcement investigators gather and preserve direct and circumstantial evidence.
- Ensure that sexual abuse victims/complaints and supporting witnesses are monitored for at least 90 days to prevent retaliation.

Law enforcement agrees to:

- Promptly, thoroughly, and objectively investigate allegations of sexual abuse as requested by the facility, Children's Protective Services, or others.
- Utilize investigators that have received special training in sexual abuse investigations involving juvenile victims.
- Follow nationally-established investigatory protocols for the investigation of sexual abuse allegations involving juveniles.
- Provide information about the progress of the investigation and provide investigation findings to the facility.